IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10548 of 2006
Date of Decision: 5.12.2006

Bishambar Dayal

Petitioner

versus

Commission Hissar Division, Hissar and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri R.K.Rana, Advocate for
Shri Amit Kumar Jain, Advocate for the petitioner
Shri Durgesh Aggarwal, Advocate for respondent No.2

Jasbir Singh, J. (Oral)

Reply on behalf of respondent No.2, filed in Court is taken on record.

This writ petition has been filed with a prayer to quash order dated 30.3.2006 (Annexure P/5), vide which the appeal filed by respondent No.2 was allowed and the petitioner was ordered to be ejected from the demised premises. It is not in dispute that initially, the shop was let out to the petitioner at the rate of Rs.100/- per month. When he failed to pay the rent, the respondent No.2 filed an application for his ejectment. The Collector, vide order dated 25.6.1998, by noting that the shop is in a dilapidated condition and also that the petitioner is a poor person, running only a tea shop, ordered that the rent of the shop be increased from Rs.100/- to Rs.200/- per month. By further noticing that respondent No.2 had refused to accept money orders, sent by the petitioner-tenant, application for ejectment was dismissed. Respondent No.2 went in appeal, which was allowed. Ejectment of the petitioner was ordered and it was further directed

that he shall pay an amount of Rs.200/- per month towards unauthorised use and occupation of the property, in dispute alongwith 12% interest. Thereafter, it appears that on 4.7.2006, the market committee sent a notice to the petitioner asking him to vacate the property, in dispute and also to pay an amount of Rs.69,028/- (Rs.30000/- as rent and Rs.39028/- as interest @ 12% per annum) When this matter came up for hearing before this Court on 17.7.2006, following contention of counsel for the petitioner was noticed by this Court:-

> *"Counsel states that the petitioner is unable to pay arrears of rent at one go. Counsel undertakes that the petitioner shall deposit an amount of Rs.30,000/- with respondent No.2 within fifteen days from today and shall pay the remaining amount in installments alongwith simple interest @ 6% per annum."*

It is not in dispute that in consequent to the undertaking given, the petitioner has deposited Rs.30,000/- with respondent No.2. He has also started paying Rs.1000/- per month towards arrears and future rent of the shop, in dispute. We feel that once the petitioner has agreed to pay the amount, in dispute and also to pay arrears of the rent due and future rent @ Rs.200/- per month, he deserves to retain the present shop. The Collector has noticed that the alleged shop is in the shape of a *khokha* and has been built up in the cattle shed. The petitioner is running only a tea shop in the same. Now, once the petitioner has paid the entire arrears of rent alongwith 12% interest, we feel that his ejectment from the shop, in dispute, is not justified. Accordingly, this writ petition is allowed, order passed by the Commissioner stands modified and the petitioner is allowed to continue in the shop on payment of Rs.200/- per month towards rent. Liberty is granted

to the market committee to increase the rent @ 5% every year. The petitioner shall clear the arrears by paying Rs.1000/- per month to respondent No.2. It is made clear that if the petitioner fails to make the payment, as stated above, this writ petition shall be deemed to have been dismissed.

(Jasbir Singh)
Judge

December 05, 2006 **(Pritam Pal)**
gk **Judge**